

United States District Court
Middle District of Florida
Jacksonville Division

ERIN MALLEY,

Plaintiff,

v.

No. 3:20-cv-609-MMH-PDB

TARGET CORPORATION,

Defendant.

Order

Without opposition from plaintiff Erin Malley, defendant Target Corporation requests an order requiring Malley to submit to a physical examination by neurosurgeon Eric Gabriel, M.D., on June 3, 2021, at 12:30 p.m., at 2 Shircliff Way, Suite 300, Jacksonville, Florida 32204. Doc. 27.

Target explains the examination is necessary because Malley's physical condition is in controversy. Doc. 27; *see also* Doc. 3 ¶¶ 9, 10 (alleging injuries in complaint from a fall at Target). Target explains Dr. Gabriel and his staff will conduct a physical examination related to areas of alleged injury including the spine, inquire about her medical and other history, conduct range-of-motion and strength tests, and conduct a neurological examination to evaluate reflexes and other areas. Doc. 27 at 1–2.

A court may “order a party whose mental or physical condition ... is in controversy to submit to a physical or mental examination by a suitably licensed or certified examiner.” Fed. R. Civ. P. 35(a)(1). The order “may be

made only on motion for good cause and on notice to all parties and the person to be examined” and “must specify the time, place, manner, conditions, and scope of the examination, as well as the person or persons who will perform it.” Fed. R. Civ. P. 35(a)(2).

Target has established good cause. Malley’s physical condition is in controversy, the examination is focused on the claimed injuries, and she has no objection. The Court **grants** the motion, Doc. 27, and **directs** Malley to appear at the examination at the time and place described. The parties may agree on a different date and time without need for further Court order.

Ordered in Jacksonville, Florida, on May 28, 2021.

A handwritten signature in black ink, appearing to read 'P. D. Barksdale', is positioned above a horizontal line.

PATRICIA D. BARKSDALE
United States Magistrate Judge